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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

PAMELA THOMPSON, Individually)	CASE NO.: C 07-05437 PJH
and as Personal)	
Representative of CHARLES)	[Sonoma County Superior
THOMPSON, Deceased,)	Court Case No. 241544]
)	
Plaintiff,)	[PROPOSED] ORDER
)	
vs.)	DATE: December 19, 2007
)	TIME: 10:00 a.m.
CONSECO SENIOR HEALTH)	CTRM: 3,17th Floor
INSURANCE COMPANY, a)	
Pennsylvania corporation,)	Assigned to: The Honorable
DOES 1 through XX)	Phyllis J. Hamilton
)	
)	
Defendant(s).)	
_____)	

The Motion To Dismiss Pursuant To FRCP 12(b)(6), and To Strike Pursuant To FRCP 12(f) of Defendant CONSECO SENIOR HEALTH INSURANCE COMPANY came on for hearing before the Court, on December 19, 2007, at 10:00 a.m. in Courtroom 3, 17th Floor, of the above entitled court, the Honorable Phyllis J. Hamilton, District Judge Presiding. The Law Offices of Marc J. Wodin appeared as attorneys for moving parties, and The Law Offices of John E. Hill appeared as attorneys for plaintiff.

After considering the moving, opposition, and reply papers,

arguments of counsel and all matters presented to the Court,

IT IS HEREBY ORDERED THAT THE MOTION IS GRANTED.

Plaintiff Pamela Thompson ("plaintiff") is hereby dismissed, insofar as she is suing in her own capacity, on the first cause for breach of contract, the second cause for bad faith, and the third for violation of Welfare and Institutions Code §§15600.

Plaintiff is dismissed as to the first cause of action for breach of contract pursuant to FRCP 12(b)(6)

The following portions of plaintiff's complaint, and each of them, are hereby stricken:

Paragraph 12 of the first cause of action for breach of contract: "The acts of Defendants alleged in Paragraph 8, supra, were done maliciously and oppressively and with the intent of defrauding Plaintiff. Plaintiff is therefore entitled to exemplary or punitive damages." Prayer, item 3: "For punitive damages" (insofar as it relates to the first cause of action for breach of contract).

Paragraph 15 of the second cause of action for bad faith: "As a direct and proximate result of the actions of the Defendants, and each of them, Plaintiff has suffered emotional distress. . ." Paragraph 19: As a proximate result of said violations. . . Charles Thompson. . .suffered emotional distress. . ."

DATED:

THE HONORABLE PHYLLIS J. HAMILTON
JUDGE OF THE UNITED STATES
DISTRICT COURT